IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.MC.No. 1956 of 2007()

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CRL. LP.80/2005 of JUDL. MAGISTRATE OF FIRST CLASS-IV, KOZHIKODE

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PETITIONER: ACCUSED;

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1. JANARDANAN, S/O.NARAYANA KURUP,
'UDAYAM', KARIYATTIL PARAMBU, EDAKKAD AMSOM DESOM,
KOZHIKODE.

2. K.VINOD KUMAR, S/O.EMBACHAN,
KALATHI KUNDUKANDATHIL, PULIKKATHODI,
KACHERY AMSOM DESOM, WEST HILL, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT AND STATE:

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STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.1956 of 2007

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Dated this the 19th day of June 2007

**O R D E R**

The petitioners face indictment in a prosecution under Sections 448 and 427 read with 34 I.P.C. The case has now been transferred to the list of long pending cases. Consequent to non-appearance of the petitioners, warrant of arrest and coercive processes have been issued by the learned Magistrate against the petitioners. The petitioners now want to surrender before the learned Magistrate. According to them, the matter has been settled and the offences have been compounded by the complainant. The learned counsel for the petitioners submit that the petitioners apprehend that their application for bail and the application for composition may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. They, therefore, pray that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which they could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself. Their application for composition must also be considered and disposed of on the same day.

Hand over copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

jsr

// True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007